

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 73**

[Docket No. FAA-2004-17773; Airspace
Docket No. 04-ASW-11]

RIN 2120-AA66

**Modification of Restricted Areas
5103A, 5103B, and 5103C, and
Revocation of Restricted Area 5103D;
McGregor, NM**

AGENCY: Federal Aviation
Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises Restricted Areas 5103A (R-5103A), 5103B (R-5103B), and 5103C (R-5103C), and revokes Restricted Area 5103D (R-5103D) at McGregor, NM. The United States Army (U.S. Army) requested that the FAA reduce the size of R-5103A; combine a portion of the area currently designated as R-5103A and a portion of the area currently designated as R-5103D, designating the combined area as a new R-5103B; and combine the areas currently designated as R-5103B and R-5103C, and re-designate the combined area as a new R-5103C. The new R-5103A, B, and C will essentially occupy the same overall boundaries and altitudes as the current R-5103A, B, C, and D; a segment of the western boundary of R-5103C will move approximately one mile to the west; and a portion of the area currently designated as R-5103D will be eliminated. The altitude structure of the new R-5103A will be from the surface to but not including flight level (FL) 180, and R-5103B and R-5103C will be from the surface to unlimited. These modifications will allow the U.S. Army to activate the restricted areas in a manner that is more consistent with the actual utilization of the airspace.

DATES: 0901 UTC, January 20, 2005.

FOR FURTHER INFORMATION CONTACT: Steve Rohring, Airspace and Rules, Office of System Operations and Safety, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-8783.

SUPPLEMENTARY INFORMATION:

Background

On June 9, 2004, the FAA proposed to revise R-5103A, R-5103B, and R-5103C, and to revoke R-5103D in response to a request from the U.S. Army (69 FR 32296). Interested parties were invited to participate in this rulemaking proceeding by submitting

written comments on the proposal to the FAA. The FAA received no comments in response to the proposal.

The Rule

At the request of the U.S. Army, the FAA is amending Title 14 Code of Federal Regulations (14 CFR) part 73 (part 73) to revise R-5103A, R-5103B, and R-5103C, and to revoke R-5103D. Specifically, R-5103A will be reduced in size, in that, a portion of the area currently designated as R-5103A and a portion of the area currently designated as R-5103D will be combined and re-designated as a new R-5103B. The areas currently designated as R-5103B and R-5103C will be combined and re-designated as a new R-5103C and R-5103D will be revoked. The new R-5103A, B, and C will occupy the same overall boundaries and altitudes as the current R-5103A, B, C, and D with the exception of a segment of the western boundary of R-5103C which will be moved approximately one mile to the west. Also, the portion of the area currently designated as R-5103D that will not be combined into the new R-5103B will be eliminated from the restricted area airspace. The altitude structure for the new R-5103A will be from the surface to, but not including, FL180, and the new R-5103B and R-5103C will be from the surface to unlimited. These modifications will allow the U.S. Army to activate the restricted areas in a manner that is more consistent with the actual utilization of the airspace. This action will not change the times of use, using agency, or controlling agency of these restricted areas.

Section 73.51 of part 73 of Federal Aviation Regulations was republished in FAA Order 7400.8L, Special Use Airspace, dated October 7, 2003.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with paragraphs 311(c) and 311(d) of FAA Order 1050.1E, Policies and Procedures for Considering Environmental Impacts. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

List of Subjects in 14 CFR Part 73

Airspace, Navigation (air).

The Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 73 as follows:

PART 73—SPECIAL USE AIRSPACE

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 73.51 (Amended)

■ 2. § 73.51 is amended as follows:

* * * * *

R-5103A McGregor, NM (Amended)

By removing the current boundaries and designated altitudes and substituting the following:

Boundaries. Beginning at lat. 32°03'55" N., long. 106°10'00" W.; to lat. 32°03'30" N., long. 105°53'50" W.; to lat. 32°00'15" N., long. 105°56'42" W.; to lat. 32°00'30" N., long. 106°10'27" W.; to the point of beginning.

Designated altitudes. Surface to but not including FL 180.

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R-5103B McGregor, NM (Amended)

By removing the current boundaries and designated altitudes and substituting the following:

Boundaries. Beginning at lat. 32°15'00" N., long. 106°10'02" W.; to lat. 32°15'00" N., long. 105°42'02" W.; to lat. 32°03'30" N., long. 105°53'50" W.; to lat. 32°03'55" N., long. 106°10'00" W.; to lat. 32°05'02" N., long. 106°09'22" W.; to lat. 32°06'00" N., long. 106°15'32" W.; to the point of beginning.

Designated altitudes. Surface to unlimited.

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R-5103C McGregor, NM (Amended)

By removing the current boundaries and designated altitudes and substituting the following:

Boundaries. Beginning at lat. 32°45'00" N., long. 105°53'02" W.; to lat. 32°45'00" N., long. 105°52'22" W.; to lat. 32°33'20" N., long. 105°30'02" W.; to lat. 32°26'20" N.,

long. 105°30'02" W.; to lat. 32°15'00" N., long. 105°42'02" W.; to lat. 32°15'00" N., long. 106°10'02" W.; to lat. 32°28'00" N., long. 106°02'00" W.; to lat. 32°27'00" N., long. 106°00'02" W.; to lat. 32°36'00" N., long. 106°00'00" W.; to lat. 32°45'00" N., long. 105°59'02" W.; to the point of beginning, excluding that airspace within a 2 NM radius of lat. 32°39'00" N., long. 105°41'00" W.; from the surface to 1,500' AGL and also excluding that airspace beginning at lat. 32°42'49" N., long. 105°48'11" W.; to lat. 32°41'00" N., long. 105°50'00" W.; to lat. 32°40'00" N., long. 105°48'00" W.; to lat. 32°41'48" N., long. 105°46'12" W.; to the point of beginning from the surface to 1,500' above the surface.

Designated altitudes. Surface to unlimited.

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R-5103D McGregor, NM (Revoked)

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Issued in Washington, DC, December 2, 2004.

Reginald C. Matthews,

Manager, Airspace and Rules.

[FR Doc. 04-27220 Filed 12-10-04; 8:45 am]

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DEPARTMENT OF JUSTICE

28 CFR Part 16

[AAG/A Order No. 018-2004]

Privacy Act of 1974; Implementation

AGENCY: Criminal Division, Department of Justice.

ACTION: Final rule.

SUMMARY: The Criminal Division (CRM), Department of Justice (the Department), is exempting the Privacy Act system of records entitled "Organized Crime Drug Enforcement Task Force Fusion Center System," JUSTICE/CRM-028, from the subsections of the Privacy Act listed below, for the reasons set forth in the following text. The system of records was published in the **Federal Register** on October 18, 2004 (69 FR 61403).

DATES: *Effective Date:* This final rule is effective December 13, 2004.

FOR FURTHER INFORMATION CONTACT: Mary Cahill, (202) 307-1823.

SUPPLEMENTARY INFORMATION: The Department is exempting "Organized Crime Drug Enforcement Task Force Fusion Center System," JUSTICE/CRM-028, from 5 U.S.C. 552a(c)(3) and (4); (d)(1), (2), (3), and (4); (e)(1), (2), (3), (5), and (8); and (g), pursuant to the provisions of 5 U.S.C. 552a(j) and/or (k).

On October 18, 2004 (69 FR 61323), a proposed rule was published in the **Federal Register** with an invitation to comment. No comments were received.

This order relates to individuals rather than small business entities.

Nevertheless, pursuant to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601-612, this order will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 28 CFR Part 16

Administrative Practices and Procedures, Courts, Freedom of Information, Sunshine Act and Privacy.

■ Pursuant to the authority vested in the Attorney General by 5 U.S.C. 552a and delegated to me by Attorney General Order No. 793-78, amend 28 CFR part 16 as follows:

PART 16—[AMENDED]

■ 1. The authority citation for Part 16 continues to read as follows:

Authority: 5 U.S.C. 301, 552, 552a, 552b(g), and 553; 18 U.S.C. 4203(a)(1); 28 U.S.C. 509, 510, 534; 31 U.S.C. 3717 and 9701.

■ 2. Section 16.91 is amended by adding paragraphs (u) and (v) as follows:

§ 16.91 Exemption of Criminal Division Systems—limited access, as indicated.

* * * * *

(u) The following system of records is exempted pursuant to the provisions of 5 U.S.C. 552a(j) and/or (k) from subsections (c)(3) and (4); (d)(1), (2), (3), and (4); (e)(1), (2), (3), (5), and (8); and (g) of 5 U.S.C. 552a: Organized Crime Drug Enforcement Task Force Fusion Center System (JUSTICE/CRM-028). These exemptions apply only to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a(j) and/or (k).

(v) Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) because to provide the subject with an accounting of disclosures of records in this system could inform that individual of the existence, nature, or scope of an actual or potential law enforcement or counterintelligence investigation by the Organized Crime Drug Enforcement Task Force Fusion Center or the recipient agency, and could permit that individual to take measures to avoid detection or apprehension, to learn the identity of witnesses and informants, or to destroy evidence, and would therefore present a serious impediment to law enforcement or counterintelligence efforts. In addition, disclosure of the accounting would amount to notice to the individual of the existence of a record. Moreover, release of an accounting may reveal information that is properly classified pursuant to Executive Order 12958 (or successor or prior Executive Order) or a statute and

could compromise the national defense or foreign policy.

(2) From subsection (c)(4) because this subsection is inapplicable to the extent that an exemption is being claimed for subsection (d)(1), (2), (3), and (4).

(3) From subsection (d)(1) because disclosure of records in the system could alert the subject of an actual or potential criminal, civil, or regulatory violation of the existence of that investigation, of the nature and scope of the information and evidence obtained as to his activities, of the identity of confidential witnesses and informants, of the investigative interest of Organized Crime Drug Enforcement Task Force Fusion Center and other intelligence or law enforcement agencies (including those responsible for civil proceedings related to laws against drug trafficking or related financial crimes); lead to the destruction of evidence, improper influencing of witnesses, fabrication of testimony, and/or flight of the subject; reveal the details of a sensitive investigative or intelligence technique, or the identity of a confidential source; or otherwise impede, compromise, or interfere with investigative efforts and other related law enforcement and/or intelligence activities. In addition, disclosure could invade the privacy of third parties and/or endanger the life, health, and physical safety of law enforcement personnel, confidential informants, witnesses, and potential crime victims. Access to records could also result in the release of information properly classified pursuant to Executive Order 12958 (or successor or prior Executive Order) or by statute, thereby compromising the national defense or foreign policy.

(4) From subsection (d)(2) because amendment of the records thought to be incorrect, irrelevant, or untimely would also interfere with ongoing investigations, criminal or civil law enforcement proceedings, and other law enforcement activities and impose an impossible administrative burden by requiring investigations, analyses, and reports to be continuously reinvestigated and revised.

(5) From subsections (d)(3) and (4) because these subsections are inapplicable to the extent exemption is claimed from (d)(1) and (2).

(6) From subsection (e)(1) because, in the course of its acquisition, collation, and analysis of information under the statutory authority granted to it, the Organized Crime Drug Enforcement Task Force Fusion Center will occasionally obtain information concerning actual or potential violations of law that are not strictly within its statutory or other authority or may